

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION
NO. 05CV11039EFH

SOUTHEAST FLOATING DOCKS, INC.,

Plaintiff

v.

AGM MARINE CONTRACTORS, INC.,
CHILDS ENGINEERING CORPORATION,
AND THE TOWN OF PROVINCETOWN,

Defendants

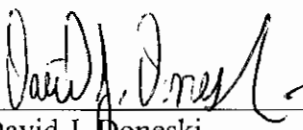
AFFIDAVIT OF DAVID J. DONESKI

I, David J. Doneski, on oath, hereby depose and say as follows:

1. I am an attorney employed by Kopelman and Paige, P.C., which serves as Town Counsel to the Town of Provincetown, Massachusetts.
2. On June 30, 2005, I received an email originally sent by Attorney Rosemary Hayes, counsel for the plaintiff. In that email, Attorney Hayes alleged that certain documents were not included in the documents that the Town made available to the plaintiff for inspection on June 27 and 28. A true copy of Attorney Hayes' June 30 email is attached hereto as Exhibit A.
3. On June 30, 2005, I emailed Attorney Hayes and advised that I would call her to confer. A true copy of my June 30 email is attached hereto as Exhibit B.
4. On June 30, 2005, I telephoned Attorney Hayes. During that conversation, I advised Attorney Hayes that I would confer with the Town regarding the issues raised in her June 30 email, and that, after doing so, I would call her back to respond to such issues.

5. During my June 30 telephone conversation with Attorney Hayes, Attorney Hayes never advised me that she intended on filing any further motions with the Court.
6. Subsequent to the June 30 telephone conversation, I attempted to speak with an employee of the Town regarding the issues raised in Attorney Hayes' email. Before hearing back from the Town on my inquiry, I reviewed the Court's electronic docket on July 8, 2005 and learned that the plaintiff had filed the Motion for Contempt Order and Sanctions.
7. Not until July 8, 2005, when I checked the Court's electronic docket, did I become aware that plaintiff had filed the Motion for Contempt Order and Sanctions. Though Attorney Richard Holland and I are the attorneys of record for the Town in this matter, neither I nor Attorney Holland received an electronic or hard copy of plaintiff's motion.
8. On July 8, 2005, I sent an email to Attorney Hayes advising her of my knowledge of the Motion for Contempt Order and Sanctions and noting my view that the motion was moot by virtue of this Court's denial on July 7 of plaintiff's previous motion for attorneys' fees. A true copy of that July 8 email is attached hereto as Exhibit C.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 15th DAY OF JULY 2005.



David J. Doneski

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UNITED STATES DISTRICT COURT
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